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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/301,549      04/29/99      MOTEKI      Y      ISHP:022

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EXAMINER

PASCUA, J

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

12/30/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/301,549**

Applicant(s)

**Moteki et al.**

Examiner

**Jes F. Pascua**

Group Art Unit

**3727**



☒ Responsive to communication(s) filed on Apr 29, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-8 is/are pending in the application

Of the above, claim(s) none is/are withdrawn from consideration

☒ Claim(s) none is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada in view of Bunch.

Okada discloses the claimed device except it is uncertain if the perforated film 12 is oriented and the film covering the perforations 16 is non-oriented. Bunch discloses that it is known in the art to provide an oriented, perforated film laminated to a non-oriented film in an analogous bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the perforated film of Okada as an oriented film and the film covering the perforations in Okada as a non-oriented film, taught to be desirable by Bunch, in order to provide a clean, straight directional tear path in both films.

Regarding claim 5, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the limitation that the perforations are formed by a sheet sandpaper has not been given patentable weight.

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Regarding claims 2 and 3, Okada and Bunch disclose the claimed invention, as discussed above, except for the first and/or second tearable zones including a plurality of spaced apart tearable rough surface portions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and/or second tearable zones of Okada with a plurality of spaced apart tearable rough surfaces, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Regarding claim 4 Okada and Bunch disclose the claimed invention, as discussed above, except for the tearable zone having a mark indicating a tear direction. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tearable zone of the Okada bag with a mark indicating a tear direction since it was known in the art that such marks provide visual cues that facilitate opening of the bag.

Regarding claim 7, Okada and Bunch disclose the claimed invention, as discussed above, except for the opposite ends of the strip forming the longitudinal sealed portion facing in opposite directions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to face the ends of the Okada strip in opposite directions since the Examiner takes Official Notice of the equivalence of overlapped longitudinal seals and fin seals for their use in the bag art and the selection of any of these known equivalents to form the longitudinal sealed portion in Okada would be within the level of ordinary skill in the art.

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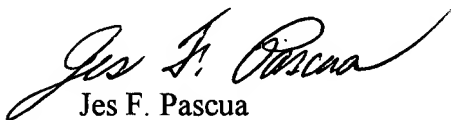
*Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jes F. Pascua whose telephone number is (703) 308-1153.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging the FAXing of responses to Office Actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the Examiner.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ebony Smith at (703) 305-3570.



Jes F. Pascua  
Primary Examiner  
Art Unit 3727  
December 21, 1999